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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/312,586	05/14/1999	TAYLOR S. GAUTIER	3941	2821

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EXAMINER

NGUYEN, VAN H

ART UNIT PAPER NUMBER

2126

DATE MAILED: 02/25/2004

9

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/312,586

Applicant(s)

GAUTIER, TAYLOR S.

Examiner

VAN H NGUYEN

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2126

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 November 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 and 20-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 20-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 May 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3-5</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This Office Action is in response to *Response to Restriction Requirement* filed November 04, 2003.
2. Applicant's election without traverse of claims 1-16 and 20-36 in Paper No. 8 is acknowledged.
3. Claims 1-16 and 20-36 are presented for examination.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 1, 2, 8-16, 20, 21, 27-31, and 36 are rejected under 35 U.S.C. 102(a) as being anticipated by **Shimada et al.** "*Interactive Scaling Control Mechanism for World-Wide Web Systems*" Computer Networks and ISDN Systems, Vol. 29, pp. 1467-1477 (1997) - Cited by Applicant in the IDS (paper #4).

6. As to **claim 1**, Shimada teaches the invention as claimed including a method of optimizing the delivery of content data from a web server to a client device (*abstract; page 1467*), the method comprising:

- receiving a request for content data from a client device (*page 1470; left column, lines 5-31 and fig.2*);

- selecting optional content of the content data responsive to performance characteristics of the requesting client device (*page 1470; right column, lines 1-16 and fig.2*);  
and

- transmitting the selected optional content to the requesting client device (*fig. 3 on page 1471*).

7. **As to claim 2**, Shimada teaches selecting, one of a plurality of content items responsive to the performance characteristics of the requesting client device (*section 3.1.2; page 1470*).

8. **As to claim 8**, Shimada teaches optimization constraints are associated with each content item, and the optimization constraints index classes of client devices, wherein each class of client device has different performance characteristics, further comprising: assigning the requesting client device an optimization constraint responsive to the performance characteristics of the requesting client device; and selecting comprises selecting a content item responsive to the assigned optimization constraint (*section 3.2, pp. 1470-1473*).

9. **As to claim 9**, Shimada teaches assigning an optimization constraint responsive to the performance characteristics of the requesting client device further comprises: determining a connection type in use by the client device; and associating an optimization constraint responsive to the connection type of the client device (*section 3.2, pp. 1470-1473*).

10. **As to claim 10**, Shimada teaches assigning an optimization constraint responsive to the performance characteristics of the requesting client device further comprises: determining a web browser in use by the requesting device; and associating an optimization constraint responsive to

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the web browser in use by the requesting client device (*section 3.1.2 (6), page 1470 and section 6, page 1476*).

11. **As to claim 11**, Shimada teaches assigning an optimization constraint responsive to the performance characteristics of the requesting client device further comprises: determining a processor type in use by the requesting client device; and associating an optimization constraint further comprises: associating an optimization constraint responsive to the processor type in use by the requesting client device (*section 3.2, pp. 1470-1473 and section 6, page 1476*).

12. **As to claim 12**, Shimada teaches assigning an optimization constraint responsive to the performance characteristics of the requesting client device further comprises: determining an amount of memory in use by the requesting client device; and associating an optimization constraint further comprises: associating an optimization constraint responsive to the amount of memory in use by the requesting client device (*abstract and section 6, page 1476*).

13. **As to claim 13**, Shimada teaches determining a display type in use by the requesting client device; and associating an optimization constraint further comprises: associating an optimization constraint responsive to the display type in use by the requesting client device (*section 4.2, page 1474 and section 6, page 1476*).

14. **Claim 14** is directed to a system for performing the method of claim 1, and is similarly rejected under the same rationale.

15. **As to claim 15**, Shimada teaches a plurality of client devices, for transmitting requests for content to the content server and receiving content transmitted from the content server, at least one client device having different performance characteristics than at least one other client device (*section 3.1.2 (6), page 1470*).

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16. **As to claim 16**, Shimada teaches optimization constraints index classes of client devices based upon performance characteristics and the optional content within a context data is indexed by the optimization constraints, and the content server selects optional content from the context data responsive to assigning an optimization constraint to a requesting client device (*section 3.2.1, page 1470*).

17. **Claim 20** includes the same subject matter as in claim 1, and is similarly rejected under the same rationale. Claim 20, however, further recites “delivering a web page.”

Shimada teaches delivering a web page (*section 3.1.2 (1)-(6), page 1470 and fig. 3, page 1471*).

18. **Claims 21 and 27-29** include the same subject matter as in claims 2 and 8-10, and are similarly rejected under the same rationale.

19. **Claim 30 and 31**, are directed to a computer-readable medium for implementing the method of claims 1 and 2, and are similarly rejected under the same rationale.

20. **As to claim 36**, the rejection of claim 1 above is incorporated herein in full. Claim 36, however, further recites determining a class of device to which the requesting client device belongs responsive to the performance characteristics of the requesting client device; assigning the requesting client device an optimization constraint responsive to the determined class of client device; and selecting one of a plurality of content items responsive to the assigned optimization constraint.

Shimada teaches determining a class of device to which the requesting client device belongs responsive to the performance characteristics of the requesting client device (*section 3.1.2 (6), page 1470 and section 6, page 1476*); assigning the requesting client device an

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optimization constraint responsive to the determined class of client device; and selecting one of a plurality of content items responsive to the assigned optimization constraint (*pp. 1470 and section 3.2*).

***Claim Rejections - 35 USC § 103***

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. Claims 3-7, 22-26, and 32-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Shimada et al.** in view of **Ogdon et al.** (U.S. 6, 598,075 B1).

23. **As to claim 3**, Shimada does not explicitly teach the plurality of content items is ordered with respect to highest and lowest performance characteristics of client devices, and selecting comprises: responsive to a client device having a highest performance characteristic, selecting a first ordered content item.

Ogdon teaches the plurality of content items is ordered with respect to highest and lowest performance characteristics of client devices, and selecting comprises: responsive to a client device having a highest performance characteristic, selecting a first ordered content item (*abstract and col.3, lines 26-65*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Ogdon with Shimada because it would have provided the accessibility of the WWW enabling users to receive objects in the desired media and size through interactive operations.

24. **As to claim 4**, Shimada does not explicitly teach the plurality of content items is ordered with respect to highest and lowest performance characteristics of client devices, and selecting comprises: responsive to a client device having a highest performance characteristic, selecting a last ordered content item.

Ogdon teaches the plurality of content items is ordered with respect to highest and lowest performance characteristics of client devices, and selecting comprises: responsive to a client device having a highest performance characteristic, selecting a last ordered content item (*abstract and col.3, lines 26-65*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Ogdon with Shimada because it would have provided the accessibility of the WWW enabling users to receive objects in the desired media and size through interactive operations.

25. **As to claim 5**, Shimada teaches optimization constraints are assigned to classes of client devices, and each class of client device has different performance characteristics, further comprising: determining the performance characteristics of the requesting client device; determining a class of client device to which the requesting client device belongs responsive to the determined performance characteristics of the requesting client device; assigning the requesting client device an optimization constraint responsive to the determined class of client



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device to which the requesting client device belongs; and selecting comprises selecting, a content item whose order corresponds to the optimization constraint (*section 3.1.2, page 1470*).

26. **As to claim 6**, Shimada teaches responsive to an optimization constraint specifying a class of device having a lowest performance characteristic, selecting a content item requiring a least amount of bandwidth to be transmitted (*section 3.1.2, page 1470 and section 6, page 1476*).

27. **As to claim 7**, Shimada teaches responsive to an optimization constraint specifying a class of device having a lowest performance characteristic, selecting a content item requiring a least amount of data (*section 3.1.2, page 1470 and section 6, page 1476*).

28. **Claims 22-26** include the same subject matter as in claims 3-7, and are similarly rejected under the same rationale.

29. **Claim 32-35** are directed to a computer-readable medium for implementing the method of claims 3, 5, 8, and 9, and are similarly rejected under the same rationale.

### ***Conclusion***

30. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Barber et al.	U.S. 6128668	issued date: 10/2000
- Ackerman et al.	U.S. 5469131	issued date: 07/1997
- Moriya	WO 98/15091	publication date: 04/1998

31. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VAN H NGUYEN whose telephone number is (703) 306-5971.

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The examiner can normally be reached on Monday-Thursday from 8:30AM - 6:00PM. The examiner can also be reached on alternative Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (703) 305-9678.

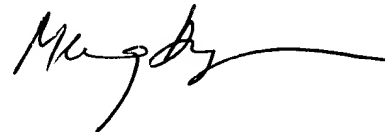
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9000.

**Any response to this action should be mailed to:**  
**Commissioner for Patents**  
**PO Box 1450**  
**Alexandria, VA 22313-1450**

**or fax to:**

(703) 746-7239 (for formal communications intended for entry)  
(703) 746-7238 (for After Final communications)  
(703) 746-7240 (for informal or draft communications)

VHN  
February 19, 2004



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